IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 59 of 2005

In

SPECIAL CIVIL APPLICATION No. 6331 of 1989

with

CIVIL APPLICATION No.343 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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HABIBBHAI R. KHEDAVHORA &1 - Appellant(s)

Versus

GSRTC &1 - Defendant(s)

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Appearance :

MR DP KINARIWALA for Petitioner No(s).: 1,2.

None for Respondent No(s).: 1,2.

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CORAM :HONOURABLE MR.JUSTICE R.S.GARG

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 08/07/2005

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Heard learned counsel for the appellants. The appellants submit that in view of the award made in the earlier reference in favour of some of the employees wherein clause 29 of the settlement was interpreted the appellants having completed, 240 days of service, are entitled to similar benefits as have been granted in favour of those persons at whose instance earlier reference was made.
2. It is to be noted that the earlier reference was made at the instance of those persons who were in service of the Transport Corporation, and for the rainy season or so they were removed from service. Taking into consideration the said set of facts the Labour Court had interpreted clause 29 of the settlement. When these questions were raised before the learned Judge, it was observed by the learned Single Judge that the appellants are not similarly situated. Undisputedly, the appellants continued to be in service right from 1979, were not terminated or removed in 1983, no reference was made at their instance. When award is made at the instance of somebody, and it is sought to be implemented in favour of the appellants then the appellants are obliged to prove to the satisfaction of the Court that they are similarly situated. In the present case the learned Single Judge was absolutely justified in rejecting the claim of the appellants. We find no reason to interfere in the matter. The Appeal is dismissed.
3. Consequently Civil Application No.343 of 2005 is rejected.

(R.S. Garg, J.)

(Ravi R. Tripathi, J.)

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